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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,653	10/31/2001	John R. Spain	PW 024 9731 P12823	2025

7590 06/14/2005  
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EXAMINER	
PERUNGAVOOR, VENKATANARAY	
ART UNIT	PAPER NUMBER

2132

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/001,653

Applicant(s)

SPAIN ET AL.

Examiner

Venkatanarayanan Perungavoor

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

***Claim Rejections – 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-7, 8-13, 14-21, are rejected under 35 USC § 101 as they recite a software program per se which is non-statutory subject matter. See MPEP 2106, IV, B, 1(a).

***Claim Rejections – 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,723,284 to Munck et al.(hereinafter Munck)
5. Regarding Claim 1, The “hardware element having an hardware address”; a “digital signature generator to create a digital signature of the hardware address of the hardware element”; a “memory element to store the digital signatures of the hardware element; a “a software program to compare the digital signature of the hardware element to a known value”(the hardware address being associated

with the private key that is unique to the hardware that cannot be accessed or used in another way see Col 2 Ln 38-48) is met by Munck see Col 3 Ln 59- Col 4 Ln 26.

6. Regarding Claim 2, 9, 15, The "software program is a device driver" (as the controller having the functions of a device driver) is met by Munck see Fig. 2 item 60.
7. Regarding Claim 3, 10, 16, 23, and 30, Munck discloses of the decryption and storing in memory see Col 1 Ln 54-63 & Col 2 Ln 49-55.
8. Regarding Claim 4, 11, 17, 26, and 33, Munck discloses the hardware element being an network adapter see Fig.1 item 30.
9. Regarding Claim 5, 12, 18, 25, 27, 32, and 34, Munck discloses the manipulating of number of hardware with hash see Col 6 Ln 18-27.
10. Regarding Claim 6, 13, 19, 28, and 35, Munck discloses the encrypting with a private key see Col 2 Ln 56-62.
11. Regarding Claim 7, Munck discloses the data processor see Col Fig 2 item 82.

12. Regarding Claim 8, The "microprocessor" see Fig. 2 item 82; "user interface to receive information from a user" see Fig 2 item 60; "a power supply to supply power to the network device" is suggested within the reference official notice taken; "hardware element having an hardware address" ; a "digital signature generator to create a digital signature of the hardware address of the hardware element"; a "memory element to store the digital signatures of the hardware element; a "a software program to compare the digital signature of the hardware element to a known value" "(the hardware address being associated with the private key that is unique to the hardware that cannot be accessed or used in another way see Col 2 Ln 38-48) is met by Munck see Col 3 Ln 59- Col 4 Ln 26.

13. Regarding Claim 14, The "first data processing device" see Fig.2 item 82; "second data processing device" see Fig.2 item 72; "communication device to enable communication with second data processing device" see Fig. 2 item 94 & 76; "hardware element having an hardware address" ; a "digital signature generator to create a digital signature of the hardware address of the hardware element"; a "memory element to store the digital signatures of the hardware element; a "a software program to compare the digital signature of the hardware element to a known value" (the hardware address being associated with the private key that is unique to the hardware that cannot be accessed or used in another way see Col 2 Ln 38-48) is met by Munck see Col 3 Ln 59- Col 4 Ln 26.

14. Regarding Claim 20, Munck discloses the verification system being included in the first data processing device see Fig. 2 item 72 & item 60.

15. Regarding Claim 21, Munck discloses the second being a computer see Fig. 2 item 82.

16. Regarding Claim 22, The "creating of a digital signature of the hardware address of the hardware element"; "storing of the digital signatures of the hardware element"; "comparing of the digital signature of the hardware element to a known value"; "permitting access to hardware element only if the digital signature of the hardware element is same as the known value" (the hardware address being associated with the private key that is unique to the hardware that cannot be accessed or used in another way see Col 2 Ln 38-48) is met by Munck see Col 3 Ln 59- Col 4 Ln 26 & Col 5 Ln 20-35.

17. Regarding Claim 24 and 31, Munck discloses the storing of hardware address in memory see Fig 1 item 24.

18. Regarding Claim 29, The "a machine storage medium" see Fig. 1 item 24; "creating of a digital signature of the hardware address of the hardware element"; "storing of the digital signatures of the hardware element"; "comparing of the digital signature of the hardware element to a known value"; "permitting access to

hardware element only if the digital signature of the hardware element is same as the known value" "(the hardware address being associated with the private key that is unique to the hardware that cannot be accessed or used in another way see Col 2 Ln 38-48) is met by Munck see Col 3 Ln 59- Col 4 Ln 26 & Col 5 Ln 20-35.

### ***Conclusion***

19. The following are cited to show the art in general:

U.S. Patent Publication 2001/0056534 A1 to Roberts.

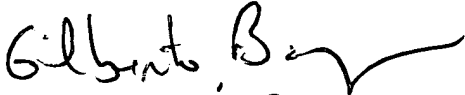
20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Venkatanarayanan Perungavoor whose telephone number is 571-272-7213. The examiner can normally be reached on 8-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Venkatanarayanan Perungavoor  
Examiner  
Art Unit 2132

VP  
6/3/2005

  
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